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MINISTRY OF LAW

New Delhi, the 24th October, 1953

THE SEA CUSTOMS (AMENDMENT) ORDINANCE, 1953

No. 3 OF 1953

An Ordinance further to amend the Sea Customs Act, 1878.

WHEREAS a Bill to amend the Sea Customs Act has been introduced in Parliament but has not yet been passed;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give effect to the amendments proposed in the said Bill;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. Short title and commencement.—(1) This Ordinance may be called the Sea Customs (Amendment) Ordinance, 1953.

(2) It shall come into force at once.

2. Act VIII of 1878 to be temporarily amended.—The Sea Customs Act, 1878 (hereinafter referred to as the principal Act) shall, during the period of operation of this Ordinance, have effect subject to the amendments specified in sections 3, 4 and 5.

3. Insertion of new section 43B in Act VIII of 1878.—After section 43A of the principal Act, the following section shall be inserted, namely:—

“43B. Drawback on imported materials used in the manufacture of goods which are exported.—(1) Where it appears to the Central Government that, in the case of goods of any class or description

manufactured in, and exported from, India or shipped as provisions or stores for use on board a ship proceeding to a foreign port, a drawback should be allowed of duties of customs chargeable under this Act in respect of any material of a class or description used in the manufacture of such goods, the Central Government may, by notification in the Official Gazette, direct that a drawback shall be allowed in respect of such goods in accordance with, and subject to, the provisions of this section and any rules made thereunder.

(2) A drawback under this section shall be allowed only in respect of such quantity and material as is shown to the satisfaction of the Customs-collector to be duty-paid.

(3) The Central Government may make rules for the purpose of carrying out the provisions of this section and, in particular, such rules may—

(a) specify the class or description of manufactured goods in the case of which, and the class or description of material in respect of which, drawback is to be paid;

(b) provide for drawback to be paid in respect of such quantity of material of that class or description as is actually contained in the goods or is specified in the rules as being the average quantity of such material used in the manufacture of goods of that class or description either by manufacturers generally or by any particular manufacturer;

(c) specify the rate of drawback to be payable with reference to the weight, quantity or any other basis as the Central Government may deem fit;

(d) provide for the admissibility of drawback for any specific period or without any limit of period;

(e) provide for requiring the manufacturer of goods in the case of which drawback is to be paid to produce, to the Customs-collector, evidence relating to the proportion in which the material in respect of which drawback is claimed is contained in such goods and the payment of duty on such material;

(f) provide for requiring persons who have been concerned at any stage with goods in the case of which drawback is claimed under this section to furnish such information as may, in the opinion of the Customs-collector, be necessary to enable him to determine whether duty has been paid on the material contained in the goods in respect of which a claim is made and for requiring such persons to produce any books of account or other documents of whatever nature relating to that material;

(g) provide for the production of such certificates, documents and other evidence in support of each claim of drawback as may be necessary;

(h) provide for requiring the manufacturer to give access to every part of his manufactory to any officer of the Central Government specially authorised in this behalf by the Chief Customs Officer or the Chief Customs Authority to enable such authorised Officer to inspect the processes of manufacture and

to verify by actual check or otherwise the statements made in support of the claim for drawback.

Explanation.—In this section the expression ‘manufacture’ (with its grammatical variations and cognate expressions) includes the processes of blending any goods or making of other alterations therein.”

4. Insertion of new section 100A in Act VIII of 1878.—After section 100 of the principal Act, the following section shall be inserted, namely:—

“100A. *Manufacture of goods in bonded warehouses.*—(1) With the sanction of the Customs-collector, and after such notice given and under such rules as the Chief Customs Authority from time to time prescribes, any owner of goods may, after warehousing the same—

(a) carry on any manufacturing process in the warehouse in relation to such goods;

(b) blend the goods or make any other alteration therein for any purpose whatsoever.

(2) Without prejudice to the generality of the power conferred by sub-section (1), the rules which the Chief Customs Authority may prescribe under that sub-section may provide for all or any of the following matters, namely:—

(a) the conditions relating to the storage of duty-paid and other goods in the warehouse for the purpose of carrying on therein any operations permissible under sub-section (1);

(b) the supervision by officers of customs over such operations and the payment of fees for such supervision;

(c) the security to be furnished for the due observance of any rules and conditions prescribed under this section.

(3) After any operations permissible under this section have been carried out in the warehouse and the warehoused goods repacked in proper or approved packages, the Customs-collector may, at the request of the owner of such goods, cause or permit any refuse, damaged or surplus goods remaining after the completion of such operations or repacking (or, at the like request, any goods which may not be worth the duty) to be destroyed, and may remit the duty payable thereon.

(4) The Central Government may, by notification in the Official Gazette, exempt any goods manufactured, blended or otherwise altered in a warehouse, when cleared for home consumption, from the whole or any part of the duties leviable thereon.”

5. Amendment of Schedule to section 167, Act VIII of 1878.—In the Schedule to section 167 of the principal Act,—

(a) in item 1. in the entry in the first column, the words ‘for the contravention of which no specific penalty is prescribed’ shall be inserted at the end;

(b) after item 10, the following item shall be inserted, namely:—

" 10A. If a claim for drawback in respect of any goods is made in contravention of section 43B or any rules made thereunder.

Such goods shall be liable to confiscation ;

43 B, any person concerned in any such offence shall be liable to a penalty not exceeding twice the amount of drawback claimed or not exceeding one thousand rupees."

(c) in item 47—

(i) in the entry in the first column, for the words and figures 'in section 100' the words, figures and letters 'in section 100 or section 100A or in any rules made under section 100A' shall be substituted;

(ii) in the entry in the second column, for the figures '98 & 100' the figures, word and letter '98, 100 & 100A' shall be substituted.

RAJENDRA PRASAD,
President.

K. Y. BHANDARKAR,
Secy. to the Govt. of India.